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SUBJECT: ITALIAN REQUEST TO UPDATE NICKEL EXPORT AGREEMENT

1. Action Request -- See Paragraph 5.

2. The GOI recently contacted embassy regarding their interest in updating a 1982 agreement on issuance of certificates of origin for the export of nickel-bearing material to the U.S. The agreement was intended to ensure that such exports did not contain nickel of Cuban origin. Under the agreement the Ministry of Productive Activities (MPA) is required to provide such certification, but given the closure of many provincial-level MPA offices (which had been issuing the certificates), the GOI now believes that local Chambers of Commerce should have that authority.

3. On November 24, 2004, the GOI forwarded the following diplomatic note 081/P/0512605:

(Informal Embassy translation)
(Complimentary Opening)

. . . and refers to the Agreement by exchange of notes on the certification procedures for the export of nickel-bearing material from Italy to the United States, done at Washington on January 6, 1982 (modified by exchange of letters of August 8, 1983), and in particular part H of the accord regarding consultation by both Parties.

As illustrated verbally to the Embassy in the course of the November 19, 2004 meeting at the Foreign Ministry, some intervening changes in Italian legislation (closure of the provincial offices of the Ministry of Industry -- now called the Ministry of Productive Activities -- and the transfer of their authority in matters of certification to the Chambers of Commerce, Industry, Agriculture, and Artisanship -- CCIAA) necessitates an update of the reference Agreement, substituting, as necessary, the CCIAA as territorially competent for the Ministry of Industry. Regarding this proposal, the Ministry notes that, under the terms of Article 1, comma 2, of Italian Legislative Decree 165 dated March 30, 2001, the Italian CCIAA offices obtained the status of "public administration."

The Ministry therefore proposes to the Embassy to convey the following amendments to the text of the Agreement:

(note -- following text in English in original)

PROCEDURES

"The Government of Italy will issue, through the relevant territorial Chamber of Commerce, Industry, Agriculture and Handicraft (the organism designated for this purpose by the Italian Government), hereinafter referred to as CCIAH, certificates of origin"

A. REGISTRATION OF PRODUCERS AND INSPECTION OF RECORDS

(1) Italian producers of nickel-bearing materials who wish to obtain certificates of origin in accordance with the procedures listed herein in order to export their products to the United States are required to register with the relevant territorial CCIAH, which will have authority to issue such certificates. Registration will be considered on a plant-by-plant basis. Registration for certification for nickel-bearing materials will be granted only for those plants which do not use and do not intend to use: (1) nickel or nickel oxide originating in Cuba or (2) steel mill products containing more than 2.5% nickel unless obtained in accordance with the provisions in paragraph B(3). The relevant territorial CCIAH will promptly deregister any plant that ceases to meet these conditions."

"(3) An official representative of the relevant territorial CCIAH shall inspect the records"

"(4) These samples shall be analyzed either at the laboratory of the registered production plant or at an independent laboratory designated for this purpose by the relevant territorial CCIAH. In either case, the analysis shall be performed under the supervision of a representative of the relevant territorial CCIAH. A
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certified copy of the analysis report shall be retained by the relevant territorial CCI AH for each shipment received."

B. SOURCES OF NICKEL AND SOURCES OF STEEL MILL PRODUCTS CONTAINING MORE THAN 2.5% NICKEL

"(1) . . . where no certification agreement is in effect

(e.g., nickel granules and nickel sulphate from the U.S.S.R. and nickel-bearing materials from Czechoslovakia). (GOI proposes deletion of the entire preceding parenthetical reference).

C. ISSUANCE OF CERTIFICATES OF ORIGIN

"(1) Any registrated producer who wishes to export nickel-bearing materials to the United States shall submit an application for a certificate of origin to the relevant territorial CCI AH."

"(4) in paragraphs B(3) (a) and (c) above. The relevant territorial CCI AH shall not issue its certification unless it has seen the applicable certificate of origin and determined that it has been appropriately issued. The prior certificate(s) of origin shall be affixed to the certificate issued by the relevant territorial CCI AH and shall accompany the shipping documents."

"(5) An official representative of the relevant territorial CCI AH shall inspect the nickel-bearing material. The inspector shall stamp on each package a special reference number of which the relevant territorial CCI AH shall maintain a record"

"(7) The application shall then be forwarded to the relevant territorial CCI AH which, if satisfied"

"(8) shall bear the following statement:

"The Chamber of Commerce, Industry, Agriculture and Handicraft of , entrusted by the Government of Italy, hereby certifies that "

D. CONTROL OF SHIPPING

"(1) Italian Customs authorities with the affixed seals of the relevant territorial CCI AH"

E. NOTICE OF AVAILABILITY OF CERTIFICATES OF ORIGIN

"(2) It is agreed that while the Treasury Department will, in general, honor all certificates of origin issued by the Italian Chambers of Commerce, Industry, Agriculture and Handicraft in accordance with these procedures"

(End original text in English)

(Following is informal translation of Italian original)

The Ministry of Foreign Affairs awaits receipt from the Government of the United States of its opinion in this regard,

(Complimentary Close)

14. On November 19, 2004, econoff met with officials from the MFA and the Ministry of Productive Activities (MPA) to discuss the Italian request to update the agreement. Econoff was given relevant copies of Italian legislation indicating the legal status of local offices of the Italian chambers of commerce, including their acquisition of many of the functions formally reserved to local offices of the Ministry of Industry. MPA officials told us that, following the closure of the local offices, the MPA's Rome staff were not provided sufficient resources to take over many functions that had been performed at the local level, including the issuance of certificates of origin. Though provincial-level Chambers of Commerce had begun to issue such certificates, our MPA interlocutors said some Italian exporters had complained that U.S. customs authorities occasionally refused to recognize the certificates -- hence the GOI's interest in updating our bilateral agreement.

15. Action Request: Embassy looks forward to Department's response to the Italian note. Our copy of the original agreement, provided by the MFA, shows that it came into force in 1982 by means of an exchange of letters between Dennis O'Connell, Director of the Office of Foreign Assets Control, Department of the Treasury, and M. Pisani Massamormile, Commercial Minister, Italian Embassy to the U.S. Embassy Rome would be happy to fax copies of relevant documents to any interested parties -- please contact economic officer John Finkbeiner by email at FinkbeinerJM@state.gov or by phone at (39)06-4674-2849.

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